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FISCAL IMPACT STATEMENT

LS 7190 | **NOTE PREPARED:** Mar 8, 2004
BILL NUMBER: HB 1320 | **BILL AMENDED:** Mar 4, 2004

SUBJECT: Human Services.

FIRST AUTHOR: Rep. Hasler | **BILL STATUS:** Enrolled
FIRST SPONSOR: Sen. Miller

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
X FEDERAL

Summary of Legislation: *Community Mental Health Centers (CMHC):* This bill provides that the maximum appropriation and tax levy for community mental health centers must be annually recalculated based on the increase in the assessed value growth quotient. The bill separates the laws governing the funding of community mental health centers from the laws governing the funding of community mental retardation and other developmental disabilities centers, and it repeals a provision that duplicates other provisions added to the same chapter.

Intergovernmental Transfers: This bill authorizes the Office of Medicaid Policy and Planning (OMPP) to implement alternative payment methodologies for payable claim payments to a hospital under certain circumstances.

Medical Records Fees and Disclosure of Health Records: This bill allows the State Department of Health to disclose inpatient and outpatient discharge information to hospitals that have submitted the information. The bill allows a hospital trade association to disclose health record information received under certain circumstances. It also changes a retrieval charge to a labor charge for providing copies of medical records.

Hospital Repayment of Medicaid Overpayment: The bill eliminates a provision under which a hospital was allowed 180 days to respond to a notice that the hospital was overpaid by the Medicaid program. It makes hospitals subject to the general provision allowing 60 days for a response.

Nursing Facility Quality Assessment: This bill provides alternative options to the nursing facility assessment state plan amendment and waiver request and amends the expiration of the nursing facility quality assessment.

Subjects for Interim Study: The bill requires the Select Joint Commission on Medicaid Oversight to study certain effects resulting from the repeal of continuous eligibility under the Indiana Medicaid program and the Children's Health Insurance Program. It also requires the State Budget Committee to review disproportionate share payments for community mental health centers and make recommendations to the General Assembly. The bill also makes a technical correction.

Effective Date: July 1, 2003 (Retroactive); December 12, 2003 (Retroactive); January 1, 2004 (Retroactive); Upon passage; July 1, 2004.

Explanation of State Expenditures: *Community Mental Health Centers:* **The increased levies for mandatory county appropriations discussed below in *Explanation of Local Revenues* would result in additional state expenditures for PTRC and Homestead Credit estimated at $162,000 in FY 2004 (partial year), $516,000 in FY 2005, and $596,000 in FY 2006.** PTRC and homestead credits are paid from the Property Tax Replacement Fund (PTRF) which is annually supplemented by the state General Fund. A change in expenditures from the PTRF will ultimately affect the General Fund.

County Optional Supplemental CMHC Appropriations: The state would continue to pay PTRC and Homestead Credit payments attributable to county supplemental CMHC appropriations in the amount of $221,000 in FY 2004 (partial year) and $662,000 in all other years.

Intergovernmental Transfers: This bill contains a provision that would allow OMPP to implement payments to hospitals under an intergovernmental transfer program in the event that the Centers for Medicare and Medicaid Services (CMS) will not approve the payment plan authorized by P.L. 255-2003. The bill also provides a method for payments to hospitals using the nonfederal share of the same funding source to establish a payment program by the Office in the event that CMS would not approve the payment plans outlined in the bill.

Hospital Care for the Indigent Program (HCI)Provisions: This bill contains a provision that would allow OMPP to amend the State Medicaid Plan in order to implement payments to hospitals under the HCI program in the event that CMS will not approve the payment plan authorized by P.L. 255-2003. The bill specifies that any payment methodology implemented by OMPP under this provision must approximate as closely as possible the amount of reimbursement that each hospital would have received under the provisions of P.L.255-2003. This provision would allow the state to continue to attempt to maximize federal reimbursements under the Medicaid program using the county levy for the HCI program in the event that CMS would not approve the authorized version.

Hospital Repayment of Medicaid Overpayments: This bill would standardize the provisions that apply to Medicaid providers' procedures under the circumstances of a Medicaid overpayment. All providers that receive an overpayment notice are subject to interest payments on the amount that the Office determined was overpaid from the date of the overpayment. Procedurally, a provider may elect to request a hearing and appeal the overpayment determination, but the interest accrues on the time the overpayment remains unpaid. The amount of interest revenue that may be involved in a determination of overpayment has nothing to do with how long the specific provider type has to respond to the initial notice; the interest is calculated from the time the overpayment was actually disbursed by the Office to the time when the provider repays the overpayment. If the administrative appeals process results in a determination that the provider was not overpaid, the Office would return the amount the Office believed was an overpayment plus any interest the provider may have included. The Office would also pay the provider interest on the money from the date of the provider's repayment.

Disclosure of Health Records: Provisions in the bill regarding disclosure of health records that are not individually identifiable are intended to allow the use of hospital discharge data by the Department of Health. These provisions would expand the information available to the Department that could be used for quality measures and assessments. The bill allows this data exchange to occur. However, it does not require it and therefore should impose no fiscal impact on the state.

Copies of Medical Records: The bill changes the provision of an existing retrieval charge for providing copies of medical records to a labor charge. Under federal rules promulgated for the Health Insurance Portability and Accountability Act (HIPAA), providers may charge individuals per page fees for copying and postage associated with copies of their own medical records. Interpretation of the HIPAA rules indicates charges specifically associated with the retrieval of the records may not be an allowable charge to individuals. The change of language should allow health care providers to continue to charge a minimal amount of labor costs associated with the cost of copying records. The bill does not change the existing $15 allowable charge.

Study of Continuous Eligibility: This bill would require the Select Joint Commission on Medicaid Oversight to study, during the 2004 interim, costs and issues concerning elimination of continuous eligibility for children eligible for Medicaid or the Children's Health Insurance Program (CHIP). The 12-member Commission is comprised of 6 members of the Senate and 6 members of the House of Representatives. The Commission operates under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees ranging from $6,000 to $9,000 per interim for committees with fewer than 16 members. This provision may be accomplished within the resources made available to legislative study committees by the Legislative Council.

Review of Disproportionate Share (DSH) Funding Allocations: This bill would require the State Budget Committee to review and make recommendations concerning the DSH funding allocations for state mental health institutions and community mental health centers for state FY 2005. The fiscal impact of this provision would be dependent upon the findings and recommendations of the Budget Committee.

Extension of the Nursing Facility Quality Assessment: This bill will extend the authority of OMPP to implement a nursing facility quality assessment fee through August 1, 2005, an extension of one year. OMPP has submitted the state plan amendments and all associated applications to implement the quality assessment. However, CMS has not approved any state applications to assess broad-based quality assessment fees at this time. The bill allows OMPP some ability to modify the parameters of the quality assessment in order to comply with requirements of CMS.

The nursing facility quality assessment will require an increase in total state expenditures for nursing facilities. (See *Explanation of State Revenues*.)

Explanation of State Revenues: *Extension of the Nursing Facility Quality Assessment:* This bill will extend the authority of OMPP to implement the nursing facility quality assessment fee through the end of FY 2005. The total quality assessment is estimated to generate $107 M annually. By current statute, 80% (or $85.6 M) will be used for additional annual expenditures for nursing facility reimbursement, and 20% (or $21.4) will be available to the state to match federal Medicaid funds for purposes determined by OMPP. Since the expiration date of the current statute is August 1, the first-year impact would be 11/12 of $107 M, or $98.1 M, assuming the quality assessment was implemented by that time and in that format.

Background on the Nursing Facility Quality Assessment: Current statute requires OMPP to submit a state plan amendment and requests for waivers necessary to implement a nursing facility quality assessment to CMS. A state is allowed to assess a health care-related tax so long as the assessment is broad-based and uniformly imposed throughout a jurisdiction or provider group. The fee is to be based on a nursing facility's total annual revenue less any Medicare revenue received, and statute specifies that the quality assessment may not be passed through to the facility's residents. Quality assessments are to be collected from nursing facilities with a Medicaid utilization rate of at least 25% and at least $750,000 in annual Medicaid revenue. Statute further specifies that the money collected from the quality assessment may be used only to pay the state's share of Medicaid program costs.

Eighty percent of the fee revenue is to be used for nursing facility reimbursement, and the expenditure of the remaining 20% may be determined by OMPP. The quality assessment may only be collected if federal financial participation is available to match enhanced reimbursement for nursing facilities. The total quality assessment is estimated to generate $107 M annually: 80% of the quality assessment, or $85.6 M, will be used for additional annual expenditures for nursing facility reimbursement; $21.4 M is the estimated amount that will be available to the state to match federal funds that would otherwise be subject to reductions that have not been determined at this time.

This bill will extend the authority of OMPP to implement the quality assessment fee through August 1, 2005; the bill also allows OMPP some latitude to modify the program in order to qualify it for federal financial participation. Since the expiration date of the current statute is August 1, the first-year impact would be 11/12 of $107 M, or $98.1 M, assuming the quality assessment was implemented in that form, by that time. The final fiscal impact of this provision will be dependent upon the approval of CMS.

OMPP has submitted the state plan amendments and all associated applications to implement the quality assessment. However, CMS has not approved any state applications to assess broad-based quality assessment fees at this time.

Copies of Medical Records: As a provider of health care services, this bill would maintain the current charge structure for providing copies of medical records to individuals that is available to state hospitals. The Department of Insurance has the rule-making authority to increase the fees that may be charged for all other parties that might be authorized to request copies of medical records. Currently, the Department has a notice of intent to promulgate rules for charges associated with providing copies of medical records, but no language has been drafted.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Community Mental Health Centers:* Under this bill, mandatory county appropriations (and local gross property tax levies) would rise by an estimated $2.3 M in CY 2004, $2.7 M in CY 2005, and $3.0 M in CY 2006.

Under current law, counties must make an appropriation to fund community mental health centers from the county general fund. The appropriation may not exceed the amount that would be generated in the county by a tax rate of $0.0133, as adjusted for reassessment, per $100 of assessed value (AV). The reassessment adjustment was added by SEA 1 - 2004 and first affects appropriations in CY 2004. Except in Marion County, appropriations increased in CY 2003 as a result of the new reassessed values. In CY 2004, these appropriations will be reduced to their 2002 appropriation level plus natural AV growth (estimated at 2.7% per year beginning in CY 2005). The average annual increase in AV from over five years (1997 - 2002) was 3.3%. However, in more recent years, AV growth has dropped. The three-year average (1999 - 2002) was 2.7%.

Under current law, business personal property AV will be reduced from 2003 to 2004. This reduction is due to the expansion of the interstate commerce exemption for inventory and the return of the personal property depreciation schedules to their original rates. The reduced personal property AV along with natural AV growth will produce a statewide total 2004 appropriation that is approximately the same as the 2002 appropriation. After 2004, the appropriation will grow at an estimated average rate of 2.7% per year under current law.

Under this proposal, each county's mandatory 2004 community mental health center appropriation would be equal to the amount levied by the county in 2002 to fund the CMHC appropriation plus growth for 2003 and 2004 at the rate of the county assessed value growth quotient (AVGQ). Beginning in 2005, each year's appropriation would equal the amount levied by the county in the previous year to fund the CMHC appropriation plus the AVGQ. The AVGQ is equal to the six-year average annual increase in Indiana nonfarm personal income. The AVGQ was 4.8% in CY 2003 and 4.7% in CY 2004. Based on the January 12, 2004, economic forecast, future AVGQs are estimated at 4.4% in CY 2005 and 3.9% in CY 2006. All counties would have the same growth rate.

Under current law, 2004 CMHC mandatory appropriations would, more or less, be equal to 2002 appropriations, but under the amendment, the 2004 appropriation would be about 9.7% larger than the 2002 appropriation. Each year beginning with CY 2005, appropriations would grow at the AVGQ growth rate (about 4.4% in 2005 and 3.9% in 2006) instead of 2.7%. This analysis assumes that AV will continue to grow by about 2.7%.

County Optional Supplemental CMHC Appropriations: Under current law, the optional supplemental appropriations available for each county must come from available funds under the county's maximum levy. This includes the current supplemental appropriation for all counties that is capped at the amount generated by a tax rate of $0.02 and the additional optional Lake County appropriation that is capped at the amount generated by a tax rate of $0.01.

Under this bill, the appropriation caps for all supplemental appropriations would also grow at the same rate as the mandatory appropriations. This bill would also move the supplemental appropriations, up to the amount of the 2002 supplemental appropriation, outside of the maximum levy limits for the three counties that currently make these appropriations. These counties are Lake, Porter, and St. Joseph, and their supplemental appropriations totaled $3.1 M in CY 2002. On its face it would appear that these counties could, at their option, increase their actual levies by $3.1 M per year. However, these appropriations have always been treated as being outside of the max levy. Therefore, this language would codify current practice.

State Agencies Affected: Legislative Services Agency; Office of Medicaid Policy and Planning and the Division of Mental Health and Addiction, Family and Social Services Administration; State Department of Health; Department of Insurance.

Local Agencies Affected: Community Mental Health Centers; Counties.

Information Sources: Local Government Database; *January 12, 2004, Revenue Forecast*, Revenue Technical Committee; and the Office of Medicaid Policy and Planning, Melanie Bella, Assistant Secretary.

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